

# UNITED STATES DISTRICT COURT

for the

District of South Carolina

United States of America )  
v. )  
ELQUANN FUNCHESS, a/k/a Tiwaii Funchess, a/k/a Quan Funchess ) Case No: 5:07-1195-MBS  
Date of Previous Judgment: 9/19/08 ) USM No: 15740-171  
(Use Date of Last Amended Judgment if Applicable) ) Defendant's Attorney

## Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

**IT IS ORDERED** that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (*as reflected in the last judgment issued*) of \_\_\_\_\_ months **is reduced to** \_\_\_\_\_ months.

### I. COURT DETERMINATION OF GUIDELINE RANGE (*Prior to Any Departures*)

Previous Offense Level: \_\_\_\_\_ Amended Offense Level: \_\_\_\_\_  
Criminal History Category: \_\_\_\_\_ Criminal History Category: \_\_\_\_\_  
Previous Guideline Range: \_\_\_\_\_ to \_\_\_\_\_ months Amended Guideline Range: \_\_\_\_\_ to \_\_\_\_\_ months

### II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☐ Other (*explain*): \_\_\_\_\_

### III. ADDITIONAL COMMENTS

Defendant's sentence of 180 months was based upon the statutory required sentence of 120 months as to Count 1 and 60 months consecutive as to Count 3. Defendant's sentence was based on the mandatory minimums required by statute and not the sentencing guidelines. Therefore, the amendments to the crack guidelines are not applicable.

Except as provided above, all provisions of the judgment dated 9/19/08 shall remain in effect.

**IT IS SO ORDERED.**

Order Date: September 3, 2010

/s/ Margaret B. Seymour  
Judge's signature

Effective Date:  
(if different from order date)

United States District Judge  
Printed name and title